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Attorney for Plaintiff, JOSHUA ASSIFF

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSHUA ASSIFF,

Plaintiff,

v.

**COUNTY OF LOS ANGELES;
SHERIFF DEPUTY BADGE
NUMBER 404532;
And DOES 1 through 10,**

Defendants.

Case No. 2:22-cv-05367 RGK (MAAx)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
DEFENDANTS' MOTION IN LIMINE
#6**

Action Filed: August 3, 2022
Pretrial Conference: July 10, 2023
Trial Date: July 25, 2023

Assigned to: Hon. R. Gary Klausner,
District Judge, Courtroom 850

Plaintiff, JOSHUA ASSIFF (hereinafter "Plaintiff") hereby respectfully submits the following memorandum of points and authorities in opposition to Defendants' motion in limine #6 to preclude any evidence, references to evidence, witness testimony, contentions, or cross-examination relating to evidence of financial damages not properly disclosed in a Rule 26 Computation of Damages.

I. INTRODUCTION

Plaintiff is a 21-year old black male and a student at Antelope Valley College where he plays basketball. Plaintiff was driving from his home to a teammate's house

1 in order to carpool to basketball practice. For no apparent reason and without
2 probable cause, KELLY, a male Caucasian motorcycle Sheriff deputy, pulled
3 Plaintiff over. For no apparent reason and without probable cause, KELLY – as well
4 as other deputies who subsequently responded to the call – all tasered, choked, pepper
5 sprayed, beat and arrested Plaintiff. Plaintiff has asserted the First Cause of Action
6 against KELLY for violation of 42 USC § 1983 (arrest without probable cause and
7 with excessive force).

8 **II. THIS MOTION IS DEFECTIVE, AND SHOULD BE DENIED**

9 Defendants argue that “any evidence, references to evidence, witness
10 testimony, contentions, or cross-examination relating to evidence of financial
11 damages not properly disclosed in a Rule 26 Computation of Damages” should be
12 precluded. However, the motion does not really complain about the completeness of
13 the Rule 26 disclosure, but rather the evidence that they discovered to back up that
14 disclosure. However, even that argument is defective, as the evidence that
15 Defendants refer to in their motion is obviously referring to PAST economic damages
16 whereas the Rule 26 disclosure refers to FUTURE economic damages.
17 Defendants are comparing apples to oranges.

18 **III. CONCLUSION**

19 For the reasons set forth above, this motion should be denied.

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21 DATED: June 30th, 2023

The Law Office Of Thomas M. Ferlauto, APC

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23 By: 

24 Thomas M. Ferlauto

25 Attorney For: Plaintiff, JOSHUA ASSIFF
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